

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariana Thomas	Team: Squad #16	CCRB Case #: 202303151	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/12/2023 3:28 PM, Wednesday, 04/12/2023 3:59 PM	Location of Incident: Ebbitts Street and Winham Avenue; § 87(2)(b) Hospital	18 Mo. SOL 10/12/2024	Precinct: 122		
Date/Time CV Reported Thu, 04/13/2023 2:00 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 04/13/2023 2:00 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Yassir Zahroof	24718	962885	122 PCT
2. PO Jadd Zahrieh	29008	965635	122 PCT
3. PO Vincent Mandracchia	01559	960860	122 PCT
4. PO Melissa Pascual	00790	961074	122 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Natalie Caserta	21974	971003	122 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Jadd Zahrieh	Discourtesy: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh spoke discourteously to § 87(2)(b)	
B . PO Yassir Zahroof	Force: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Yassir Zahroof used physical force against § 87(2)(b)	
C . PO Yassir Zahroof	Force: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Yassir Zahroof hit § 87(2)(b) against a vehicle.	
D . PO Jadd Zahrieh	Abuse: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh searched the vehicle in which § 87(2)(b) was an occupant.	
E . PO Jadd Zahrieh	Abuse: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh threatened § 87(2)(b) with the use of force.	
F . PO Jadd Zahrieh	Force: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh used a non-lethal restraining device on § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G . PO Jadd Zahrieh	Force: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh used a non-lethal restraining device on § 87(2)(b)	
H . PO Jadd Zahrieh	Discourtesy: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh spoke discourteously to § 87(2)(b)	
I . PO Vincent Mandracchia	Force: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Vincent Mandracchia used physical force against § 87(2)(b)	
J . PO Yassir Zahroof	Discourtesy: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Yassir Zahroof spoke discourteously to § 87(2)(b)	
K . PO Melissa Pascual	Abuse: At § 87(2)(b) Hospital, Police Officer Melissa Pascual threatened to arrest § 87(2)(b)	
L . PO Melissa Pascual	Discourtesy: At § 87(2)(b) Hospital, Police Officer Melissa Pascual spoke discourteously to § 87(2)(b)	
M . PO Melissa Pascual	Discourtesy: At § 87(2)(b) Hospital, Police Officer Melissa Pascual spoke discourteously to § 87(2)(b)	

Case Summary

On April 13, 2023, § 87(2)(b) filed this complaint, on behalf of her son, § 87(2)(b) via the CCRB's Call Processing System.

On April 12, 2023, at approximately 3:28 p.m., in the vicinity of Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh and Police Officer Yassir Zahroof, of the 122nd Precinct, stopped the vehicle § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) occupied. PO Zahrieh allegedly told § 87(2)(b) he could do "whatever the fuck" he wanted and ordered him to exit the vehicle (**Allegation A: Discourtesy**, § 87(2)(g) PO Zahroof grabbed § 87(2)(b) shoulders and leaned him against the back of the vehicle (**Allegation B: Force**, § 87(2)(g) The officers handcuffed § 87(2)(b) escorted him to their police car, and PO Zahroof allegedly slammed the car door on § 87(2)(b) feet (**Allegation C: Force**, § 87(2)(g) PO Zahrieh allegedly stuck his head through the rear window of § 87(2)(b) vehicle and looked around the back seat (**Allegation D: Abuse of Authority**, § 87(2)(g) PO Zahrieh threatened to deploy his Taser at § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g) PO Zahrieh and Police Officer Vincent Mandracchia, of the 122nd Precinct, attempted to handcuff § 87(2)(b) who fled, and PO Zahrieh deployed his Taser at § 87(2)(b) (**Allegation F: Force**, § 87(2)(g) PO Zahrieh allegedly deployed his Taser in drive-stun mode on § 87(2)(b) back (**Allegation G: Force**, § 87(2)(g) PO Zahrieh ordered § 87(2)(b) to give him his "fucking hands" (**Allegation H: Discourtesy**, § 87(2)(g) PO Mandracchia allegedly knelt on § 87(2)(b) back as he handcuffed him (**Allegation I: Force**, § 87(2)(g) PO Zahroof allegedly told § 87(2)(b) to "mind his fucking business" (**Allegation J: Discourtesy**, § 87(2)(g)

Police Officer Natalie Caserta and Police Officer Melissa Pascual, both of the 122nd Precinct, arrived on scene and transported § 87(2)(b) to § 87(2)(b) Hospital. Upon arrival, PO Pascual told § 87(2)(b) he would be arrested again (**Allegation K: Abuse of Authority**, § 87(2)(g) PO Pascual told § 87(2)(b) to "Cut the shit" (**Allegation L: Discourtesy**, § 87(2)(g) PO Pascual told § 87(2)(b) "Shut the fuck up," "No one gives a fuck what you got to say," and asked him, "Do you even have a dad?" (**Allegation M: Discourtesy**, § 87(2)(g)

§ 87(2)(b) was arrested for outstanding warrants. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] § 87(2)(b) was arrested for resisting arrest, obstructing governmental administration, and for not wearing a seatbelt (**Board Review 03**). § 87(2)(b) received nine summonses: no license plate, distorted visibility, license plate cover, improper signal, nontransparent windshield, nontransparent side windows, nontransparent rear windows, and nontransparent rear side windows (**Board Review 04-12**).

This case was originally assigned to Supervising Investigator Jessica Russo and was reassigned to Investigator Ariana Thomas.

The investigation received 24 body-worn camera ("BWC") videos from the NYPD Legal Bureau (**Board Review 13-36**). The investigation is not in possession of any other video evidence.

Findings and Recommendations

Allegation (A) Discourtesy: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh spoke discourteously to § 87(2)(b)

Allegation (B) Force: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Yassir Zahroof used physical force against § 87(2)(b)

Allegation (C) Force: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Yassir Zahroof used physical force against § 87(2)(b)

§ 87(2)(b) testified that after going to Dugan Playground on 280 Mill Road, in Staten Island, he, § 87(2)(b), § 87(2)(b), § 87(2)(b) and § 87(2)(b) entered § 87(2)(b) vehicle to drive home (**Board Review 37**). His vehicle is a green Honda Accord, with tints on all windows and a “lightly” tinted license plate cover. § 87(2)(b) was driving, § 87(2)(b) was in the front passenger seat, § 87(2)(b) was behind the driver’s seat, § 87(2)(b) sat next to § 87(2)(b) and § 87(2)(b) was behind the front passenger. § 87(2)(b) stopped at a stop sign on Ebbitts Street and noticed an unmarked vehicle behind him with its lights and sirens activated, so he pulled over. PO Zahrieh and PO Zahroof exited the vehicle. PO Zahrieh approached the driver’s side, as PO Zahroof stood at the rear of the vehicle. PO Zahrieh aggressively banged three consecutive times on the rear driver’s side window, telling § 87(2)(b) to roll the window down. § 87(2)(b) complied, and § 87(2)(b) told PO Zahroof that he could be gentler. PO Zahrieh said he would do “whatever the fuck” he wanted and ordered § 87(2)(b) to exit the vehicle. PO Zahrieh pulled on the handle of the rear driver’s side door, opened the door, and § 87(2)(b) and § 87(2)(b) stepped out. § 87(2)(b) handed PO Zahrieh his license and registration. § 87(2)(b) heard § 87(2)(b) arguing with PO Zahroof about why he was being arrested. PO Zahrieh and PO Zahroof handcuffed § 87(2)(b) without incident. PO Zahroof ordered § 87(2)(b) to sit on the ground a few times and he refused. PO Zahroof had a hand on § 87(2)(b) shoulder while telling him to sit down. PO Zahroof and PO Zahrieh escorted § 87(2)(b) to their police vehicle, holding onto each arm. When § 87(2)(b) sat in the vehicle, the officers pushed the door closed on § 87(2)(b) leg about two to three times before he was able to lift his leg and place it inside.

§ 87(2)(b) testified that after he questioned PO Zahrieh as to why he pulled over § 87(2)(b) PO Zahrieh told him, “You want to be a street lawyer, now step out of the car because you have no seatbelt on, I can tell you to do that” (**Board Review 38**). § 87(2)(b) complied. PO Zahrieh asked for § 87(2)(b) ID, which he provided. The officers ran his information, told § 87(2)(b) he had a bench warrant, and handcuffed him. § 87(2)(b) yelled at the officers that it was not fair that they chose to prove they were the boss instead of explaining the law to him. PO Zahroof put his left arm under § 87(2)(b) right arm and his hand on § 87(2)(b) shoulder while he was handcuffed. PO Zahroof twisted § 87(2)(b) arm up, caused him to bend forward, and caused slight pain to his wrists. PO Zahroof told § 87(2)(b) to sit on the floor so that he and PO Zahrieh could ask everyone in the vehicle for their IDs. § 87(2)(b) said he did not want to sit on the floor. The officers eventually decided to put § 87(2)(b) in the police vehicle. § 87(2)(b) voluntarily got into the police vehicle. The officers tried to close the police vehicle door, but § 87(2)(b) feet were in the way. The officers did not provide § 87(2)(b) with enough time to move his feet before they closed the door and did not issue him any verbal commands. The door closed on § 87(2)(b) feet once; it did not cause him pain. § 87(2)(b) moved his feet, the officers slammed the door shut together. Officers did not use profanity.

§ 87(2)(b) testified that PO Zahrieh ordered § 87(2)(b) to “step out of the fucking car” (**Board Review**). When closing the police car door, § 87(2)(b) leg was still outside of the vehicle and the officers pushed the door closed on his leg. They continuously pushed the door on his leg, about two to three times.

§ 87(2)(b) testimony was consistent with the other civilians’ (**Board Review 43**).

§ 87(2)(b) was unavailable to the investigation (See IAs for contact attempts).

In PO Zahrieh's BWC video (**Board Review 13**), at 01:00, PO Zahrieh approaches the driver's side of a sedan, which has tinted windows. At 1:23, PO Zahrieh tells § 87(2)(b) that he does not have his seatbelt on and asks if he wants to step out. At 01:27, PO Zahrieh opens the rear passenger door and orders § 87(2)(b) to step out. § 87(2)(b) complies and walks to the back of the car, where PO Zahroof orders him to produce ID. At 01:46, PO Zahrieh tells § 87(2)(b) he stopped him for failing to signal and tinted windows. § 87(2)(b) says he has the exemption for the tints and that he signaled. At 02:30, PO Zahrieh steps toward the back of the vehicle and tells § 87(2)(b) that he has open marijuana. At 03:12, PO Zahroof shows PO Zahrieh something on his phone and the officers handcuff § 87(2)(b) stating he has four warrants. At 04:44, § 87(2)(b) asks why no one else in the vehicle was pulled out for not wearing a seatbelt. PO Zahrieh says that he asked him for his ID, and he did not provide it. § 87(2)(b) exits the vehicle and PO Zahrieh orders her to get back inside. She remains standing outside of the vehicle. At 04:48, § 87(2)(b) tells § 87(2)(b) he did not have a seatbelt on either and PO Zahrieh asks if he wants to step out of the vehicle and if he has identification. At 05:00, § 87(2)(b) tells PO Zahrieh to leave the passengers alone and starts shouting, "I'm from the hood," at PO Zahroof while taking a step towards him. PO Zahroof and PO Zahrieh turn § 87(2)(b) toward the rear of his car and place him against the vehicle, as he yells "it's [his] free speech" and threatens to "fold" the officers. At 05:55, the officers walk § 87(2)(b) to the sidewalk and order him to sit on the curb. § 87(2)(b) refuses. At 07:00, § 87(2)(b) continues screaming at the officers and moving around. At 07:22, PO Zahrieh approaches § 87(2)(b) and asks for his ID. § 87(2)(b) says he does not have "shit" for him. At 08:22, § 87(2)(b) and § 87(2)(b) scream at the officers. § 87(2)(b) gets close to PO Zahroof's face as he says he's a "bitch." PO Zahrieh approaches and tells PO Zahroof to put him in the car. At 08:48, the officers walk § 87(2)(b) to their unmarked vehicle.

What follows is more clearly captured in PO Zahroof's BWC video (**Board Review 14**), where at 08:56, § 87(2)(b) sits in the vehicle, placing both legs and feet inside the vehicle. At 09:01, as PO Zahroof begins to close the door, § 87(2)(b) moves his knee to his right, such that it appears to prevent the door from closing. PO Zahroof tells § 87(2)(b) to watch his leg. At 09:04, it appears that § 87(2)(b) pushes his knee out further, as PO Zahroof closes the door.

PO Zahrieh testified that he and PO Zahroof were driving on Mill Road, when they observed § 87(2)(b) vehicle make a right onto Tysens Lane without signaling (**Board Review 39**). PO Zahrieh approached the driver's side and noticed that the windows were tinted. Once the occupants of the vehicle lowered the windows, PO Zahrieh noticed that there were five passengers in the vehicle and that the officers were outnumbered, which was unsafe. PO Zahrieh asked § 87(2)(b) to step out of the vehicle because he was not wearing a seatbelt. PO Zahroof ran § 87(2)(b) name on his department phone and found that he had four warrants, so the officers arrested him (**Board Review 40**, page 4). At the back of the vehicle, § 87(2)(b) began cursing, screaming, and moving around. PO Zahrieh and PO Zahroof performed a "control hold" of § 87(2)(b) where they held him against the vehicle to gain compliance and prevented him from moving around. PO Zahrieh and PO Zahroof placed § 87(2)(b) in their unmarked vehicle while they waited for a "cage car" to arrive. When placing him in the vehicle, § 87(2)(b) continued moving around to resist getting in the vehicle, but eventually sat down in the vehicle. When closing the door, § 87(2)(b) poked his knee out of the door, simultaneously. The door bucked back as a result. The officers ensured that none of § 87(2)(b) extremities were hanging out of the vehicle, as PO Zahrieh pushed it closed a second time. In closing the door, § 87(2)(b) poked his knee out further, but the officers continued pushing the door and securely closed it. PO Zahrieh did not intentionally hit § 87(2)(b) leg with the door.

PO Zahroof's testimony was generally consistent with PO Zahrieh's (**Board Review 41**). He testified that while standing at the back of the vehicle, § 87(2)(b) began moving around and getting "fidgety." PO Zahroof held § 87(2)(b) by grabbing his arm. He was moving around so much that PO Zahroof occasionally lost his grip. PO Zahroof placed his hand between § 87(2)(b) handcuffs and cupped his shoulder to gain compliance and ensure he did not run away. PO Zahroof pinned § 87(2)(b) against the vehicle because he was moving around. The officers asked § 87(2)(b) to have a seat on the sidewalk to reduce his chance of flight, but he refused. When the officers put § 87(2)(b) in the back of their vehicle, PO Zahroof looked into the rear passenger door before closing it, where he observed § 87(2)(b) knee, which he believed was in the gap between the seat and the door. He believed § 87(2)(b) knee cleared the door. However, when PO Zahroof closed the door, it collided with § 87(2)(b) knee. PO Zahroof told § 87(2)(b) to move his knee back. § 87(2)(b) scooted toward the door about six to eight inches, as if trying to get out. PO Zahroof thought § 87(2)(b) was going to run, at which point he and PO Zahrieh forcefully closed the door. The door made contact with § 87(2)(b) knee, again, which PO Zahroof denied expecting. PO Zahroof continued pushing the door closed, until it was secured.

The BWC video confirms that PO Zahrieh did not say he could do, "whatever the fuck he wanted," nor did he order § 87(2)(b) to, "step out of the fucking car." § 87(2)(g)

Officers may use physical force if it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain compliance from a subject to reduce or eliminate the necessity to use force. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Procedure 221-01 (Board Review 42).

The officers consistently testified that § 87(2)(b) was moving around and resisting after he was handcuffed, which is consistent with the BWC video. Additionally, the BWC video captures § 87(2)(b) making repeated threats to the officers that he would "fold them" as he moved his face and body closer to PO Zahroof at the rear of § 87(2)(b) vehicle. Furthermore, PO Zahrieh testified that he and PO Zahroof were outnumbered by the five civilians on scene. The BWC video captures § 87(2)(b) who was pregnant, remaining outside of the vehicle despite PO Zahrieh command for her not to and § 87(2)(b) yelling at the officers as § 87(2)(b) is at the back of the vehicle. § 87(2)(g)

The BWC video captures § 87(2)(b) pushing his knee out as PO Zahroof initially attempts to close the car door and again after PO Zahroof orders § 87(2)(b) to move his leg. § 87(2)(g)

Allegation (D) Abuse of Authority: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (E) Abuse of Authority: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh threatened § 87(2)(b) with the use of force.

Allegation (F) Force: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh used a non-lethal restraining device on § 87(2)(b)

Allegation (G) Force: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh used a non-lethal restraining device on § 87(2)(b)

Allegation (H) Discourtesy: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Jadd Zahrieh spoke discourteously to § 87(2)(b)

Allegation (I) Force: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Vincent Mandracchia used physical force against § 87(2)(b)

Allegation (J) Discourtesy: At Ebbitts Street and Winham Avenue in Staten Island, Police Officer Yassir Zahroof spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that after § 87(2)(b) was in the police vehicle, PO Zahrieh returned to the rear passenger seat of their vehicle, and ordered § 87(2)(b) to produce ID a few times. § 87(2)(b) refused. PO Zahrieh ordered § 87(2)(b) to exit the vehicle and § 87(2)(b) refused. PO Zahrieh stuck his head inside the window of the vehicle and looked around the back seat area. After telling him to step out about two to three times, PO Zahrieh unholstered his Taser and pointed it at § 87(2)(b) chest and ordered him to step out several additional times. PO Zahrieh opened the door, holding the Taser by his side, and continued ordering § 87(2)(b) to exit. § 87(2)(b) subsequently agreed to. Once § 87(2)(b) stepped out of the vehicle, he began walking away from PO Zahrieh. After walking for about two feet, § 87(2)(b) turned around and ran into the street. PO Zahrieh subsequently deployed his Taser from approximately six to seven feet away. The prongs contacted § 87(2)(b) upper back, near his right shoulder. § 87(2)(b) fell on his left arm and the officers handcuffed him. PO Zahrieh and PO Mandracchia, identified via the investigation, each had a knee on § 87(2)(b) one on his leg and the other on his lower back. Once handcuffed, the officers lifted § 87(2)(b) off the ground and placed him in one of the marked vehicles on scene. § 87(2)(b) received nine summonses—one for each window tint (six), one for his distorted license plate, one for improper signaling, and the last for missing license plate, which PO Zahroof issued him.

§ 87(2)(b) testified that he refused to provide PO Zahrieh his information and to exit the vehicle at PO Zahrieh's order. PO Zahrieh opened the rear passenger door and pointed the Taser at § 87(2)(b) face. PO Zahrieh asked § 87(2)(b) to step out of the vehicle three to four times. One of the times he said to get "the fuck" out of the vehicle. § 87(2)(b) exited the vehicle and the officers attempted to handcuff him, as they pulled him to the sidewalk. The officers grabbed § 87(2)(b) shoulder blades and twisted his arms behind his back. § 87(2)(b) twisted his body, broke free of their grip, and ran across the street, to the other sidewalk. When he was about halfway into the street, PO Zahrieh took two steps in his direction and deployed his Taser, hitting § 87(2)(b) in his lower back. PO Zahrieh did not warn § 87(2)(b) prior to doing so. § 87(2)(b) fell on the ground and PO Zahrieh deployed his Taser again. § 87(2)(b) could not feel anything, but after watching a video that his friends took, he believed PO Zahrieh pulled the trigger of the Taser a second time, in drive stun mode on § 87(2)(b) lower back. He sustained road rash on his left forearm and both of his hands were scratched as a result of his fall. While on the ground, one of the officers placed one of their knees on § 87(2)(b) upper back, by his shoulders to handcuff him. § 87(2)(b) breathing was not restricted. The officers grabbed one of § 87(2)(b) arms, lifted him off the ground, and dragged him, with his feet on the ground, to the back of the police vehicle. § 87(2)(b) legs were numb, and he could not walk. § 87(2)(b) was arrested for resisting arrest, OGA, and the seatbelt violation (**Board Review 03**).

§ 87(2)(b) and § 87(2)(b) testimony was generally consistent with the other civilians, except § 87(2)(b) testified that he asked PO Zahroof why he was taking pictures of § 87(2)(b).

§ 87(2)(b) vehicle, and he told him to “mind his fucking business.”

In PO Zahrieh’s BWC video (**Board Review 13**), at 11:00, PO Zahrieh tells PO Zahroof that he is going to pull § 87(2)(b) out of the vehicle. At 11:20, PO Mandracchia arrives on scene and asks what the officers need. At 11:30, PO Zahrieh tells PO Zahroof and PO Mandracchia that if § 87(2)(b) refuses to produce ID, he will pull him out. At 11:45, PO Zahrieh orders § 87(2)(b) to produce his ID and § 87(2)(b) refuses. PO Zahrieh asks for his name verbally and § 87(2)(b) refuses. PO Zahrieh tells § 87(2)(b) that he must produce ID, or he is going to take him to the precinct. § 87(2)(b) says PO Zahrieh is not taking him anywhere. At 12:00, PO Zahrieh opens the rear passenger’s door. § 87(2)(b) says not to touch him and moves further into the vehicle. PO Zahrieh reaches inside and tries to grab him. § 87(2)(b) makes a fist with both of his hands at his side. PO Zahrieh orders him to step out of the vehicle. At 12:12, PO Zahrieh points his Taser at § 87(2)(b) and says he’s going to get tased. § 87(2)(b) screams that she is right behind § 87(2)(b) and tells PO Zahrieh not to point his Taser. PO Zahrieh allows § 87(2)(b) to put his shoes on. At 13:00, § 87(2)(b) steps out and PO Zahrieh puts his Taser down to his side. At 13:04, PO Zahrieh tells § 87(2)(b) he is giving him a chance to provide his ID, or he is going to the precinct. § 87(2)(b) refuses, again. PO Zahrieh and PO Mandracchia reach for § 87(2)(b). He escapes their grasps and runs away. PO Zahrieh chases him, as he points his Taser towards § 87(2)(b) who continues running away. At 13:12, PO Zahrieh deploys his Taser and § 87(2)(b) falls to the ground. At 13:20, PO Zahrieh orders § 87(2)(b) to give him his, “fucking hands,” as § 87(2)(b) sits upright with his hands in front of his chest. PO Mandracchia kneels behind § 87(2)(b) such that his knee is against § 87(2)(b) back as he sits upright. At 13:26, PO Mandracchia pulls § 87(2)(b) arms behind his back and handcuffs him. At 13:30, the officers lift § 87(2)(b) off the ground and guide him to a police car, as he walks on his own and tells the officers to “suck his dick.”

In PO Zahroof’s BWC video (**Board Review 14**), at 36:20, PO Zahroof approaches § 87(2)(b) vehicle, and tests the window tints, taking pictures of the tint meter as he does so. At 37:20, he returns to his vehicle. At 53:55, PO Zahroof approaches § 87(2)(b) and issues him summonses. At no point in his BWC video does PO Zahroof tell § 87(2)(b) to, “mind his fucking business.”

PO Zahrieh testified that he intended to issue § 87(2)(b) a seatbelt summons. After § 87(2)(b) refused PO Zahrieh’s multiple orders to produce ID or provide his name verbally, PO Zahrieh opened the rear passenger door and reached to grab § 87(2)(b) actively resisted by tensing and moving his fists towards PO Zahrieh and “flinching.” PO Zahrieh believed § 87(2)(b) was trying to hit him because § 87(2)(b) was “flinching” as he had fists in his hands. PO Zahrieh pointed his Taser at § 87(2)(b) and told him he would be tased. Based on his understanding of the Patrol Guide, PO Zahrieh believed he could use his Taser to advise § 87(2)(b) that he could be subjected to force, including a Taser, to gain compliance. PO Zahrieh believed pointing his Taser worked because § 87(2)(b) began putting on his shoes and stepped out of the vehicle. Once outside, PO Zahrieh asked § 87(2)(b) for his ID, again. § 87(2)(b) refused to provide his ID. § 87(2)(b) was irate, cursing and had his hands in fists by his side. As PO Mandracchia and PO Zahrieh began handcuffing § 87(2)(b) pushed the officers and ran away from the officers onto the street. The Patrol Guide indicates that when someone has been warned that they would be Tased, continues actively resisting, and runs or tries to flee, officers can use their Taser. The other passengers in the vehicle were yelling at PO Zahrieh at the time, in addition to bystanders in the area that stopped to watch, and § 87(2)(b) who was pregnant, was standing in the middle of the street, creating a chaotic environment. § 87(2)(b) got about a car length away. PO Zahrieh ran after him, maintaining that distance. PO Zahrieh deployed his Taser from about a car length distance. PO Zahrieh did not issue an additional

Taser warning, as he was chasing § 87(2)(b) and it was not feasible at the time. The prongs landed on § 87(2)(b) back and § 87(2)(b) fell to the ground. PO Mandracchia placed § 87(2)(b) in handcuffs. PO Zahrieh said, “Give me your fucking hands,” given the chaotic scene he described previously, as well as the adrenaline of just having Tased someone. PO Zahrieh did not recall any

additional officers using profanity, including PO Zahroof telling someone to “mind your fucking business.” The officers did not conduct a vehicle search on scene.

PO Mandracchia’s statement was generally consistent with PO Zahrieh’s testimony (**Board Review 44**). He testified that he received a radio run, where an officer requested assistance and a separate 911 call about the incident, the details of which he did not remember. Upon his arrival, § 87(2)(b) appeared angry—noncompliant, cursing, and screaming. PO Mandracchia grabbed one of § 87(2)(b) arms. § 87(2)(b) resisted, pushed away from the officers and ran into the street. Once he was on the ground, after being tased, PO Mandracchia handcuffed § 87(2)(b) as he moved his arms around.

PO Zahroof’s testimony was generally consistent with the other officers’ testimony. He denied telling anyone to “mind their fucking business.”

The Threat Resistance and Injury (“TRI”) Report (**Board Review 45**), prepared by Lieutenant Michael Condon, of the 122nd Precinct, notes that PO Zahrieh tried unsuccessfully to obtain identification for § 87(2)(b). Once § 87(2)(b) exited the vehicle, he tensed and flailed his arms to avoid being handcuffed. § 87(2)(b) then attempted to flee on foot and PO Zahrieh deployed his Taser in cartridge mode for one cycle, which was effective in stopping § 87(2)(b) who sustained a laceration to his upper back from the Taser prong.

The Taser Data Sheet for the taser used during the incident notes that the Taser was deployed for one cycle (**Board Review 47**).

The BWC footage confirms that PO Zahrieh did not stick his head through the vehicle’s window and look around the back seat, as alleged. § 87(2)(g)

Conducted Electrical Weapons (“CEWs”) should only be used against persons who are actively resisting or exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons present. Fleeing should not be the sole justification for using a CEW against a subject. Members should consider the severity of the offense, the subject’s threat level to others, and the risk of serious injury to the subject before deciding to use a CEW on a fleeing subject. CEWs should generally not be used in situations where the subject may fall from an elevated surface. NYPD Patrol Guide, Procedure 221-08 (**Board Review 46**).

Officers may use physical force if it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain compliance from a subject to reduce or eliminate the necessity to use force. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Procedure 221-01 (**Board Review 42**).

While PO Zahrieh testified that he pointed his Taser at § 87(2)(b) to advise him that he could be subjected to force, including a Taser, because he “flinched” and tensed his fists, § 87(2)(g)

§ 87(2)(g) § 87(2)(b) who was seated in the back of the vehicle, did not pose a clear threat to PO Zahrieh, and was not exhibiting active aggression or resistance, as he did not make any threats towards the officers and did not appear as if he was about to hit PO Zahrieh. At the time, PO Zahrieh was ordering § 87(2)(b) to step out of the vehicle due to the seatbelt violation and had no reason to believe that § 87(2)(b) was armed. Furthermore, the BWC footage confirms that PO Zahrieh kept his taser pointed at § 87(2)(b) as he agreed to step out and was putting his shoes on inside the vehicle. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

It is undisputed that § 87(2)(b) resisted the officers attempts to handcuff him and that PO Zahrieh then deployed his Taser at § 87(2)(b) back as he fled, which caused him to fall forward onto the street. PO Zahrieh testified that he deployed the Taser after § 87(2)(b) who was warned that he would be Tased, continued to actively resist and fled. While PO Zahrieh testified that the surrounding environment was chaotic, as the other passengers in the vehicle were yelling, bystanders were watching, and § 87(2)(b) who pregnant, was standing in the middle of the street, none of the civilians, including § 87(2)(b) who broke free from the officers and fled, posed a violent threat to the officers. Though § 87(2)(b) ultimately sustained minor injuries, given the speed at which he was running, PO Zahrieh deploying his Taser on § 87(2)(b) back increased the likelihood of serious physical harm to § 87(2)(b). As PO Zahrieh was apprehending § 87(2)(b) to identify him to issue him a summons for the seatbelt violation,

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

The BWC footage and Taser Data Sheet confirm that PO Zahrieh did not deploy his Taser in drive stun mode after the first prong deployment, as alleged. § 87(2)(g)

§ 87(2)(g)

Officers must render services with courtesy and civility, and they must maintain a higher standard of integrity than is generally expected of others. NYPD Patrol Guide, Procedure 200-02 (**Board Review 48**).

Officers have a responsibility to act with decorum in their interactions with civilians, but there are certain situations where profane remarks made during a stressful or chaotic situation do not constitute misconduct. Disciplinary Court No. 2018-18951 (**Board Review 49**).

The BWC footage shows when PO Zahrieh told § 87(2)(b) “Give me your fucking hands,” § 87(2)(b) had just been tased, was in the middle of the street, and was not handcuffed. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

The BWC footage confirms that neither PO Mandracchia nor any other officer knelt on § 87(2)(b) back while handcuffing him and that PO Zahroof did not tell § 87(2)(b) to “mind his fucking business,” as alleged. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (K) Abuse of Authority: At § 87(2)(b) Hospital, Police Officer Melissa Pascual threatened to arrest § 87(2)(b)

Allegation (L) Discourtesy: At § 87(2)(b) Hospital, Police Officer Melissa Pascual spoke discourteously to § 87(2)(b)

Allegation (M) Discourtesy: At § 87(2)(b) Hospital, Police Officer Melissa Pascual spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that officers called an ambulance for him, and several additional units arrived, including PO Caserta and PO Pascual, identified via the investigation, who accompanied § 87(2)(b) to the hospital to remove the prongs from his back. When he was released, the officers escorted § 87(2)(b) to the stationhouse.

In PO Pascual's BWC video (**Board Review 21**), at 18:16, § 87(2)(b) says something inaudible as he exits the ambulance with two EMTs following behind. At 18:18, PO Pascual says, "You'll get arrested again. You won't be able to go to work." § 87(2)(b) says, "Fuck up out of here with your fat ass." At 18:24, as PO Pascual and PO Caserta escort § 87(2)(b) into the hospital, § 87(2)(b) kicks the entrance door. PO Caserta says, "Can you not?" At 18:27, PO Pascual yells, "Cut the shit." § 87(2)(b) tells her to not "fucking yell at" him. PO Pascual says, "I just did," followed by, "shut the fuck up," three times. At 18:35, PO Pascual says, "No one gives a fuck what you have to say." At 19:07, § 87(2)(b) says, "word to my dad." PO Pascual asks, "Do you even have a dad?" The BWC video captures § 87(2)(b) being verbally abusive and calling PO Caserta a "bitch" multiple times.

PO Pascual testified that she and PO Caserta escorted § 87(2)(b) to the hospital (**Board Review 50**). En route, § 87(2)(b) was disrespectful and saying rude things to both PO Pascual and PO Caserta, calling them "fat bitches," saying, "fuck you," and other things. When removing § 87(2)(b) from the ambulance, he became physically combative and was pulling away from PO Pascual. She continued escorting him toward the entrance, and raised her voice to indicate to him that she was being serious. § 87(2)(b) continued being verbally combative. PO Pascual used profanity, telling him to "shut the fuck up" because he was not listening when they told him to stop. She wanted to make sure he knew they were serious about his safety and their safety. PO Pascual did not recall telling § 87(2)(b) that he could be arrested again for any reason. When presented with her BWC video (**Board Review 21**), PO Pascual stated that she did not recall what § 87(2)(b) said to her to make her say that he could be arrested again. She heard someone say, "cut the shit," but she was unable to identify who said it. She said, "No one gives a fuck what you got to say," to § 87(2)(b) because he was using profanity and being disrespectful. She wanted to gain his full cooperation and show that they were serious. She acknowledged asking § 87(2)(b) if he had a dad after § 87(2)(b) said, "word to my dad." She asked if he had a dad because based on his disrespectful behavior, she wondered if he had a male figure to guide him. It was not personal, but to find common ground with § 87(2)(b).

Given that what § 87(2)(b) said prior to PO Pascual informing him that he could be arrested is inaudible, § 87(2)(g)

The word "shit" is a generic term that is not discourteous when used in the context of referring to criminal activity. DCT Case No. 2021-23487 (Board Review 60). ‘

Though PO Pascual did not know who told § 87(2)(b) to, "Cut the shit," based on the BWC video, the investigation determined that she made this statement. However, the BWC video

confirms that when she made this statement, § 87(2)(b) was kicking the hospital door as they escorted him outside. § 87(2)(g)

Officers must render services with courtesy and civility, and they must maintain a higher standard of integrity than is generally expected of others. NYPD Patrol Guide, Procedure 200-02 (Board Review 48). Discourteous language may be excusable when an officer is speaking in the context of a dynamic situation over which he is still attempting to gain control. However, officers may not use profanity that is intended only to insult or belittle a civilian. DAO-DCT Case Number 2015-15012 (Board Review 51).

Though PO Pascual testified that § 87(2)(b) was disrespectful and saying rude things to both she and PO Caserta, per the Patrol Guide, officers are to maintain a higher standard of integrity than is expected of others. PO Pascual, in repeatedly telling § 87(2)(b) to, “Shut the fuck up,” that “no one gives a fuck way you got to say,” and asking him, “Do you even have a dad,” failed to do so. Given that § 87(2)(b) was handcuffed and surrounded by two officers and two EMTs as he was being escorted inside the hospital, § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) § 87(2)(b) and § 87(2)(b) have been a party (**Board Review 52-54**).
- § 87(2)(b)
- PO Zahrieh has been a member of service for six years and this is the first complaint to which he has been a subject.
- PO Zahroof has been a member of service for seven years and has been a subject in three CCRB complaints and 10 allegations, none of which were substantiated. § 87(2)(g)
- PO Pascual has been a member of service for eight years and has been a subject in five CCRB complaints and nine allegations, three of which were substantiated.
 - Case #202004993 involved a substantiated allegation of a discourteous word. The Board recommended Command Discipline A, which the NYPD imposed.
 - Case #202203988 involved a substantiated allegation of a failure to provide RTKA card and a refusal to provide name. The Board recommended Command Discipline B, which the NYPD imposed.
- PO Mandracchia has been a member of service for eight years and has been a subject in three CCRB complaints and seven allegations, three of which were substantiated.
 - Case #202007451 involved a substantiated allegation of a threat of arrest, unlawful arrest, and false official statement. The Board recommended Charges, and the APU closed the case without serving the charges.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.

- On February 9, 2024, a Notice of Claim inquiry was sent to the New York City Office of the Comptroller (**Board Review 56**). The results will be added to the case file upon receipt.

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RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 16

Investigator:	<u>Ariana Thomas</u>	<u>Inv. Ariana Thomas</u>	<u>02/21/2024</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Patrick Yu</u>	<u>IM Patrick Yu</u>	<u>02/22/2024</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date